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BY THE COMPTROLLER GENERAL

Report To The Congress

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ORIGINAL

EPA Is Slow To Carry Out Its Responsibility To Control Harmful Chemicals

SUMMARY

For almost 4 years EPA has had broad authority to protect the public and the environment from the harmful effects of chemicals. Although actions have been taken to control three chemicals, no chemicals have been tested and basic data is lacking on most of the other 55,000 chemicals now in use. New chemicals are being screened, but implementing regulations and the review process itself have not been completed.

Several factors have hindered EPA's progress, including [illegible] to guide the program, organizational and staffing problems. EPA is working to resolve these problems.

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COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

EPA IS SLOW TO CARRY OUT ITS RESPONSIBILITY TO CONTROL HARMFUL CHEMICALS

D I G E S T

The Toxic Substances Control Act of 1976 gave the Environmental Protection Agency (EPA) a broad mandate to protect the public and the environment from unreasonable chemical risks. However, almost 4 years later, neither the public nor the environment are much better protected.

ORGANIZATIONAL AND STAFFING PROBLEMS SLOWED IMPLEMENTATION

EPA was not prepared to fulfill its new statutory responsibilities when the Toxic Substances Control Act was enacted, and subsequent problems in developing and staffing a new organization have contributed to EPA's slow progress in meeting the objectives of the act. Other factors such as the absence of a clearly articulated plan of action and an ineffective organizational structure have also impeded progress. (See pp. 8 to 12.)

At the same time EPA was establishing an organizational base, it was also working on developing a strategy to guide program implementation. In spite of considerable effort, no formal strategy emerged. Instead, work proceeded without a clear understanding of how it would fit into a comprehensive toxics program. (See pp. 12 to 15.)

EPA recognized the need to make major changes in the program and has taken action. First, it agreed in December 1979 on a basic framework for guiding program activities. Second, it proposed a major reorganization in March 1980 which would consolidate responsibility for conducting the toxics program under one deputy assistant administrator. (See pp. 16 to 18.)

EXISTING CHEMICALS

In 1976 there was little basic knowledge of how many chemicals were in commerce, how they were being used, who was being exposed, and which ones were toxic. To remedy this situation, EPA was granted broad authority to gather such information, identify those chemicals which are harmful, and control those which present an unreasonable risk. To date, EPA's progress has been disappointing.

Although compiling a chemical inventory greatly expanded the current data base, EPA has been slow to obtain other information needed to systematically assess the risks posed by the more than 55,000 chemicals already in commerce. Several factors delayed the development of rules to request more information, including limited staff support, time needed to resolve basic issues, and difficulty getting information from the inventory. (See pp. 19 to 24.)

Before EPA can initiate action to control a chemical, it must assess the chemical's risk. However, EPA has placed less emphasis on assessing and controlling existing chemicals than on new chemicals partly because other Federal programs have considerable regulatory authority over existing chemicals. At present, EPA has allotted enough staff and money to initiate only two or three control actions on existing chemicals annually. (See pp. 24 to 28.)

Certain control actions, however, have been completed. Polychlorinated biphenyls have been regulated as required by the act, chlorofluorocarbon propellants have been banned in aerosol containers, and the disposal of dioxin wastes has been restricted. In fiscal year 1981 EPA plans to initiate several actions to control asbestos. (See pp. 31 to 34.)

More must be done before EPA will have an effective program to control existing chemicals. Although EPA has developed interim management plans for the assessment process,

it needs a system to set priorities for chemicals so that those presenting the greatest risk are evaluated first. In addition, it must develop criteria to determine the appropriate course of action to take on a chemical as it moves through the assessment process. These are scheduled to be in place by fiscal year 1981, according to EPA. (See pp. 24 and 25.)

In addition to identifying and controlling potentially harmful chemicals, the act requires EPA to initiate action within 180 days of receipt of information indicating that a chemical may cause cancer, gene mutations, or birth defects. Although this requirement became effective January 1, 1979, EPA has not yet developed operational criteria to carry out this requirement because it has been unable to resolve basic issues. However, EPA is now working on a policy statement and operational criteria to implement this requirement. (See pp. 25 to 27.)

NO TESTING HAS BEEN REQUIRED FOR CHEMICALS

In conjunction with EPA's broad mandate to control existing chemicals, the Toxic Substances Control Act established the Interagency Testing Committee to recommend chemicals for priority testing. EPA is required to initiate rulemaking procedures within 1 year to require the testing or to specify its reasons for not doing so.

EPA has not required the testing of any of the 38 chemicals or categories recommended thus far and has not issued any final testing standards. EPA estimates show that it will take at least 18 months to issue an Advanced Notice of Proposed Rulemaking and about 5 years to issue a final test rule. Depending on the testing required, 9 or more years may elapse before a potentially harmful chemical is regulated. (See pp. 29 to 31.)

GAO did not assess the appropriateness of current test rule procedures but shares EPA's concern with the length of time required to

issue test rules. EPA is reviewing current policies and procedures with a view to streamlining the test rule development process.

NEW CHEMICALS

Because the best time to determine a chemical's potential health and environmental effects is before commercial production begins, the Toxic Substances Control Act requires that persons intending to manufacture a new chemical give EPA at least 90 days' advance notice.

The premanufacture notice review program began July 1, 1979, without final implementing regulations, formal operating procedures, or criteria on which to base decisions regarding a chemical's disposition. EPA cited the need to resolve major issues, such as the confidentiality of the reported information, as the reason. Although the regulations and operating procedures should be in place by December 1980, EPA has stopped work on developing formal decision criteria because of its proposed reorganization and staff changes. (See pp. 40 and 45.)

EPA has been operating the premanufacture review program under interim policy guidance. The experience to date gives some cause for concern because many manufacturers are not submitting toxicity or exposure data needed to effectively assess a chemical's risk. However, EPA is confident that no harmful chemical has been allowed on the market. (See pp. 36 to 39.)

According to EPA, this situation may change when the final premanufacture notice rules and forms are issued. GAO believes that EPA could use other provisions of the act related to new chemicals to increase the amount of information manufacturers are required to submit. EPA began a study in December 1979 to develop a strategy to obtain more information using various authorities of the act, but work has stopped on this task because of the proposed reorganization and staff changes. (See pp. 39 and 40.)

RECOMMENDATIONS

The Administrator, EPA, should resume work on projects to

--develop a strategy to obtain needed information on new chemicals using all of the act's authorities and

--establish evaluation criteria for each decision point in the premanufacture notice review process. (See p. 46.)

AGENCY COMMENTS

EPA commented that the report was a fair summary of its experience in implementing the act. The Agency stated that work is proceeding on developing a strategy to obtain more information in premanufacture notice forms. EPA also agreed to establish evaluation criteria for the premanufacture review process. (See p. 46.)

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ABBREVIATIONS

ANPRM	Advanced Notice of Proposed Rulemaking
CFC	chloroflourocarbon
DAA	deputy assistant administrator
EPA	Environmental Protection Agency
GAO	General Accounting Office
ITC	Interagency Testing Committee
MAC	Management Analysis Center, Inc.
OPAM	Office of Policy Analysis and Management
OPTS	Office of Pesticides and Toxic Substances (formerly the Office of Toxic Substances)
OTE	Office of Testing and Evaluation
OTS	Office of Toxic Substances
PCB	polychlorinated biphenyl
PMN	premanufacture notice
SOLC	Section of Law Committee
TSCA	Toxic Substances Control Act of 1976